

REMARKS

A. Outstanding Action

Claims 1, 4, 5, 7, 9-11, 18, 20, 22, 23, and 37 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 933,112 to Rieman in view of U.S. Patent 4,913,389 to McCracken.

Claims 12 and 17 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 933,112 to Rieman.

Claims 13 and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 933,112 to Rieman in view of U.S. Patent 6,258,420 B1 to Lehman.

B. Status Of Claims

Claims 1, 4, 5, 7, 9-14, 17, 18, 20, 22, 23, and 37 were pending in the application prior to the instant Amendment.

Claim 10 has been canceled without prejudice or disclaimer. Claims 1, 4, 5, 7, 9, 11-14, 17, 18, 20, 22, 23, and 37 are now pending.

C. Amendments To The Claims

The claims have been amended in accordance with the enclosed marked up copy.

D. Pending Claim

1. Pending Claim 1, 4, 5, 7, 9-11, 18, 20, 22, 23, and 37

Claims 1, 4, 5, 7, 9-11, 18, 20, 22, 23, and 37 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 933,112 to Rieman in view of U.S. Patent 4,913,389 to

McCracken.

Independent claim 1 as currently amended sets forth a wire support for supporting an object from a base surface. The object has a plurality of void areas. The wire support comprises a plurality of wires with each of the wires having a lower section, an intermediate section and an upper section. The plurality of wires are twisted along the intermediate sections for providing an upright support. Each of the lower sections of the plurality of wires extends outwardly from the upright support and terminating in a lower distal area extending generally parallel to the upright support for enabling the lower distal area of the lower section to be inserted into the base surface to mount the wire support. Each of the upper sections of the plurality of wires has an upper region extending outwardly from the upright support and terminating in an upper distal area extending generally parallel to the upright support for insertion into the plurality of void areas of the object to support the object relative to the base surface.

Applicant respectfully requests reconsideration of the rejection of independent claim 1 under 35 U.S.C. 103(a) as being unpatentable over Rieman in view of McCracken. There is no suggestion in any of the art of record of a wire support as set forth above having an upper distal area extending generally parallel to the upright support for insertion into the plurality of void areas of the object to support the object relative to the base surface.

Cited Reference Teaches Away From Applicant's Invention

U.S. Patent 933,112 to Rieman either singularly or in combination with U.S. Patent 4,913,389 to McCracken teach away from a claimed invention. The MPEP §2141.02 provides:

A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.* 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983).

The Federal Circuit has expressly addressed the issue of how to determine whether a

reference teaches away from a claimed invention. *In re Gurley*, 27 F.3d 551, 1090, 31 USPQ 2d 1130, 1131 (Fed. Cir. 1994), stated:

A reference may be said to teach away when a person of ordinary skill, upon examining the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.

Neither U.S. Patent 933,112 to Rieman nor U.S. Patent 4,913,389 to McCracken teach to one to insert the upper distal area into the plurality of void areas of the object to support the object relative to the base surface.

Lack of Basis In The Art for Combining Or Modifying Cited References

The U.S. Patent Office recognizes in MPEP §2142:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of non-obviousness. The initial evaluation of *prima facie* obviousness thus relieves both the examiner and applicant from evaluating evidence beyond the prior art and the evidence in the specification as filed until the art has been shown to suggest the claimed invention.

The Applicant believes a *prima facie* case of obviousness has not been established in that the cited references do not teach, suggest or give incentive to produce the claimed invention. The MPEP §2143.01 provides:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

The Federal Circuit has expressly addressed the issue of how to evaluate an alleged case of *prima facie* obviousness to determine whether it has been properly made. *In re Geiger*, 815 F.2d at 688, 2 USPQ2d at 1278 (Fed. Cir. 1987), stated:

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching,

suggestion or incentive supporting the combination. ACS Hospital Systems, Inc. v. Monteffiore Hospital, 732 F.2d 1572, 1577, 221 USPQ 929, 933'(Fed. Cir. 1984).

There is no teaching, suggestion or incentive to combine U.S. Patent 933,112 to Rieman with U.S. Patent 4,913,389 to McCracken to provide the wire support as set forth in independent claim 1. U.S. Patent 933,112 to Rieman relates to a support fabricated from twisted wire. U.S. Patent 4,913,389 to McCracken relates to a support fabricated by welding a metal rod with a metal flat crossbar. How would one skilled in the art combine the twisted wire support of Rieman with the metal flat crossbar of McCracken to achieve the advantages of the present invention.

The Combining OF Cited References Do Not Teach the Claimed Invention

Even if U.S. Patent 933,112 to Rieman could be combined with U.S. Patent 4,913,389 to McCracken, the combination still fails to teach the invention as set forth in independent claim 1. The combination of U.S. Patent 933,112 to Rieman and U.S. Patent 4,913,389 to McCracken does not teach to one to insert the upper distal area into the plurality of void areas of the object to support the object relative to the base surface.

2. Dependent claims 4, 5 and 7

Dependent claims 4, 5, and 7 are dependent upon independent claim 1 and should be allowable upon allowance of independent claim 1.

3. Dependent claim 9

Dependent claim 9 sets forth a wire support having a minor length of an upper and a lower end of each of the intermediate sections of the first and the second wires including a

straight portion enabling rotation of the first wire relative to the second wire for folding the wire support. This structure enables the first wire to be rotated relative to the second wire for folding the wire support into a smaller lateral space. There is no teaching or suggestion of such a structure in any of the art of record.

4. Independent claim 11

Independent claim 11 as currently amended sets forth a wire support for supporting a sheet material from a base surface comprising a first and a second wire each having a lower section, an intermediate section and an upper section. The first and second wires are identical to one another. The first and second wires are formed in a spirally twisted first and second helix along the intermediate sections for providing an upright support. Each of the lower sections of the first and second wires extends outwardly from the upright support and terminates in a lower distal area extending generally parallel to the upright support for enabling the lower distal area of the lower section to be inserted into the base surface to mount the wire support. Each of the upper sections of the first and second wires has an upper region extending outwardly from the upright support and terminates in an upper distal area extending generally parallel to the upright support for insertion into the sheet material to support the sheet material relative to the base surface.

In addition to the distinctions set forth with reference to claim 1, independent claim 11 recites additional structure as set forth above that is not found in the prior art.

5. Dependent Claims 12, 17, 18 and 20

Dependent claims 12, 17, 18 and 20 are dependent upon independent claim 11 and should be allowable upon allowance of independent claim 11.

6. Dependent Claims 13 and 14

Claims 13 and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 933,112 to Rieman in view of U.S. Patent 6,258,420 B1 to Lehman. Dependent claims 13 and 14 are dependent upon independent claim 111 and should be allowable upon allowance of independent claim 1.

7. Independent claim 22

Independent claim 22 as currently amended sets forth a wire support for supporting a corrugated sheet material having a plurality of void areas from a base surface. The wire support comprises a first and a second wire each having a lower section, an intermediate section and an upper section. The first and second wires are identical to one another. The first and second wires are formed in a spirally twisted first and second helix along the intermediate sections for providing an upright support. Each of the lower sections of the first and second wires extends outwardly from the upright support and terminates in a lower distal area extending generally parallel to the upright support for enabling the lower distal area of the lower section to be inserted into the base surface to mount the wire support. Each of the upper sections of the first and second wires has an upper region extending outwardly from the upright support and terminates in an upper distal area extending generally parallel to the upright support for insertion into the void areas of the corrugated sheet material to support the corrugated sheet material relative to the base surface. A minor length of an upper end of each of the intermediate sections of the first and the second wires comprises a straight portion for providing lateral support to a minor bottom portion of corrugated sheet material inserted between the straight portions of the upper ends of the intermediate sections.

In addition to the distinctions set forth with reference to claim 1, independent claim 22 recites additional structure as set forth above that is not found in the prior art.

8. Dependent Claim 23

Dependent claim 23 has been amended to be dependent upon independent claim 22 and should be allowable upon allowance of independent claim 22.

9. Independent claim 37

Independent claim 37 as currently amended sets forth a wire support for supporting an object from a base surface comprising a first and a second wire each having a lower section, an intermediate section and an upper section. The first and second wires are identical to one another. The first and second wires are formed in a spirally twisted first and second helix along the intermediate sections for providing an upright support. Each of the lower sections of the first and second wires extends outwardly from the upright support and terminates in a lower distal area extending generally parallel to the upright support for enabling the lower distal area of the lower section to be inserted into the base surface to mount the wire support. Each of the upper sections of the first and second wires has an upper region extending outwardly from the upright support and terminates in an upper distal area extending generally parallel to the upright support for insertion into the object to support the object relative to the base surface. A minor length of an upper and a lower end of each of the intermediate sections of the first and the second wires comprises a straight portion for enabling rotation of the first wire relative to the second wire for folding the wire support to position the first lower section and the first upper section to be adjacent to the second first lower section and the second upper section.

In addition to the distinctions set forth with reference to claim 1, independent claim 37

recites a structure that enables the first wire to be rotated relative to the second wire for folding the wire support into a smaller lateral space. There is no teaching or suggestion of such a structure in any of the art of record.

Applicant respectfully submits the cited references either singularly or in combination do not anticipate or render obvious the inventions as presently claimed.

The prior art made of record but not relied upon has been reviewed and appears to be less pertinent to the claimed subject matter than the references cited by the Examiner. The remaining references do not teach nor suggest the structure set forth in the proposed claim

E. Precautionary Request for an Extension of Time

In the event the present filing is not timely filed, applicant request an Extension of Time for an appropriate period of time. Please charge Deposit Account No. 06-2120 for the fees for any Extension of Time.

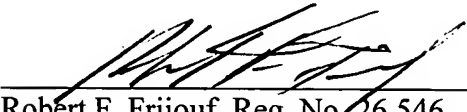
F. Additional Fees

Please charge Deposit Account No. 06-2120 for the fees for any additional claims, an Extension of Time, Citation of Prior Art, Petitions, Terminal Disclaimers or any other fee arising out of this correspondence.

Applicant verily believes that all claims are now in condition for allowance and favorable action is respectfully requested. The undersigned attorney of record cordially invites any telephonic communications from the examiner that may assist the examiner in the examination and to expedite the allowance and issuance of Letters Patent on the subject invention.

Respectfully submitted,

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